

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JAMES LEE TILLEY	§	
v.	§	CIVIL ACTION NO. 6:06cv92
J.B. SMITH, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff James Tilley, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On March 31, 2006, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed. The Magistrate Judge observed that Tilley had previously filed another lawsuit which raised the same claims as are presented in the present case. The Magistrate Judge therefore determined that the present lawsuit could be dismissed as frivolous and repetitive, albeit without prejudice to Tilley's right to pursue the other lawsuit which he had previously filed. Tilley received a copy of this Report on April 10, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

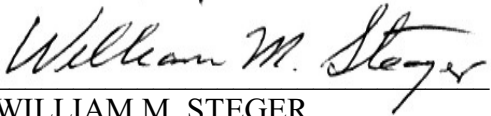
The Court has examined the Plaintiff's pleadings, the Report of the Magistrate Judge, and all documents and records in the case. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED as frivolous with prejudice as to its refiling in another new lawsuit, but without prejudice to Tilley's right to pursue his claim in the other lawsuit which he previously filed in this Court. It is further

ORDERED that any and all motions which may be pending in the present lawsuit are hereby DENIED.

SIGNED this 18th day of May, 2006.


WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE